

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MANDREEL SMITH,

Petitioner,

v.

KATHLEEN L. DICKINSON,

Respondent.

1:13-cv-01782-GSA-(HC)

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

In a habeas matter, venue is proper in either the district of conviction or the district of confinement. 28 U.S.C. § 2241(d). In this case, Petitioner challenges the result of a prison disciplinary proceeding which occurred in Ironwood State Prison located in the Central District of California. Whereas here the Petitioner attacks the execution of his sentence, as opposed to an

1 attack on the conviction itself, the proper forum in which to review such a claim is the district of
2 confinement. See Dunn v. Henman, 875 F.2d 244, 249 (9th Cir. 1989) (stating, in a 28 U.S.C. §
3 2241 action, that "[t]he proper forum to challenge the execution of a sentence is the district where
4 the prisoner is confined."). Petitioner is confined in Ironwood State Prison located in the Central
5 District of California. Therefore, the petition should have been filed in the United States District
6 Court for the Central District of California. In the interest of justice, a federal court may transfer
7 a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
8 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

9 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United
10 States District Court for the Central District of California.

11 IT IS SO ORDERED.

12 Dated: November 18, 2013

13 /s/ Gary S. Austin
14 UNITED STATES MAGISTRATE JUDGE
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